

REMARKS/ARGUMENTS

The Examiner is requested to review and acknowledge the Information Disclosure Statement filed June 26, 2009.

Claims 1-3, 10-13, 17-21 and 23-29 have been rejected primarily over Sierro et al. (U.S. Patent No. 6,837,709) in view of Malmin (U.S. Patent No. 4,276,880). Secondary references applied to some of the claims are Maita et al. (U.S. Patent No. 4,993,941), Wiek et al. (U.S. Patent Publication No. 2005/0175960), Heil (U.S. Patent No. 4,340,366), Linder U.S. Patent No. 5,188,617) and Bruns et al. (U.S. Patent No. 5,765,759):

The applicants have elected the embodiments of Species 4 (elongated or slot-shaped openings, claims 10-11) and Species D (axial nozzle opening formed symmetrically, claim 17). Claims 1-3, 12-13, 18-21 and 22-29 are generic.

It is respectfully submitted that Sierro is inapplicable to amended claims 1 and 29, the independent claims. Sierro does not disclose an outer peripheral surface provided with plural nozzle openings as now claimed. Further, the previously claimed feature in claim 1 whereby "... the fluid discharge nozzle is disposed on one side of the discharge nozzle for the air-powder mixture..." has been clarified by amendments that make the claimed subject-matter more definitive without narrowing it or substantially changing it.

With respect to the claimed arrangement in claims 1 and 29 of "... nozzle openings at least in said outer peripheral surface ...", the Examiner refers to Malmin (U.S. Patent No. 4,276,880). However, it is submitted that Malmin is not properly combinable with Sierro et al.

The device of Malmin differs substantially from the subject of the present application and from the subject of Sierro et al. (U.S. Patent No. 6,837,709), so that the combination of these two documents would be based at best on hindsight analysis.

In Malmin, no nozzle piece is disclosed "... having a discharge nozzle for fluid as well as a discharge nozzle for discharging a mixture of air and dental powder ...". Rather, Malmin shows solely one single discharge nozzle for a fluid, wherein this discharge nozzle is adapted to introduce a cleaning solution to the teeth as well as for suction thereof (see Figs. 15-17). Consequently, substantial features are missing in Malmin, namely a nozzle system having two discharge channels, which can be operated parallel at the same time, so that two different substances can be delivered simultaneously.

Moreover, Sierró's device cannot be modified according to the Examiner's interpretation of Malmin. The Examiner cites Malmin's Fig. 9 as showing an opening 613 in the outer peripheral surface of a tube 610. Malmin's tube is closed-ended. However, the Examiner has modified Malmin's tube 610, making it open-ended, without any suggestion in the art.

If the Examiner did not modify Malmin's tube 610, then the combined tubes would be closed-ended, which would prevent the powder from exiting from Sierró's inner tube 6.

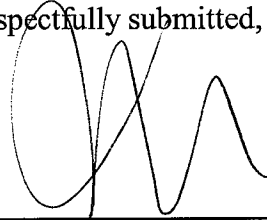
Further, the Examiner proposes to add a plurality of openings like Malmin's opening 613 to Sierró's inner powder-carrying tube 6. However, such a peripheral opening (or openings) either would be blocked by Sierra's outer fluid-carrying tube 7, or would receive the fluid carried in the outer tube 7. Therefore, it would be impossible to add peripheral opening(s) as in Malmin to the device in Sierra et al.

For at least the foregoing reasons, the rejection of claim 1 and its dependent claims 2-21 and 23-29 is requested to be withdrawn.

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JAF:lf/stb

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